

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GEAC 08-29 Corporate Income Tax
SPONSOR(S): Government Efficiency & Accountability Council
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------|-------------|----------------|
| Orig. Comm.: Government Efficiency & Accountability Council | 13 Y, 0 N | Levin/Dykes | Cooper |
| 1) _____ | _____ | _____ | _____ |
| 2) _____ | _____ | _____ | _____ |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida Income Tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is currently defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2007.

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 during 2007, by adopting the Internal Revenue Code as in effect on January 1, 2008. The definition provides for "piggybacking" each change made during 2007 to the Internal Revenue Code, except as provided in subsection (3) of s. 220.03, F.S.

In 2007, the United States Congress passed H.R. 5140, the Economic Stimulus Act of 2008, Public Law 110-185 (the "Act"). Section 102 of the Act provides temporary increases in section 179(b), Internal Revenue Code ("IRC") limitations on expensing certain depreciable assets for tax years beginning after December 31, 2007. Section 103 of the Act permits 50 percent depreciation under section 168(k), IRC, for assets placed in service after December 31, 2007 and before January 1, 2009.

Section 220.241, F.S. currently provides that estimated taxes for the period April – June are required to be remitted no later than July 10. PCB GEAC 08–29 amends the section to require these payments to be made on or before June 30. The change in the due date for estimated quarterly tax payments for the period April to June from July 10 to June 30 will shift revenues from FY 2009 – 2010 to FY 2008 – 2009. This section will be effective January 1, 2009; and on March 21, 2008, the Revenue Estimating Conference adopted a \$93.8 million impact on state revenues for FY 2008-2009.

The Revenue Estimating Impact Conference considered H.R. 5140 on February 22, 2008. It adopted a FY 2008 – 2009 cash impact to state revenues of (\$146.8 million) and an indeterminate negative estimate as a recurring impact. Because of the fiscal impact on state revenues, the amendments Congress made to sections 168(k) and 179, IRC, will not be permitted to be used in the determination of taxable income for purposes of the Florida corporate income tax.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb29a.GEAC.doc
DATE: 3/26/2008

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

None.

B. EFFECT OF PROPOSED CHANGES:

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida Income Tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is currently defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2007.

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 during 2007, by adopting the Internal Revenue Code as in effect on January 1, 2008. The definition provides for "piggybacking" each change made during 2007 to the Internal Revenue Code, except as provided in subsection (3) of s. 220.03, F.S.

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The Revenue Estimating Impact Conference considered H.R. 5140 on February 22, 2008. It adopted a FY 2008 – 2009 cash impact to state revenues of (\$146.8 million) and an indeterminate negative estimate for recurring impact. As a result of the fiscal impact on state revenues, the amendments Congress made to sections 168(k) and 179, IRC, will not be permitted to be used in the determination of taxable income for purposes of the Florida corporate income tax. The changes are effective upon becoming law and apply to tax years ending on or after December 31, 2008.

C. SECTION DIRECTORY:

Section 1: Amends s. 220.03(1)(n), and (2)(c), F.S., to update references to the Internal Revenue Code.

Section 2: Excepts from the 2008 "piggyback" sections 102 and 103 of the Economic Stimulus Act of 2008, Public Law 110-185.

Section 3: Clarifies the adjustments necessary in s. 220.131, F.S.

Section 4: Provides rulemaking authority to the Department of Revenue.

Section 5: Amends subsection (1) of s. 220.241, F.S.

Section 6: Amends s. 220.33, F.S.

Section 7: Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Impact Conference met on February 22, 2008, and estimated the impact of sections 102 and 103 of Public Law 110-185.

The conference adopted the following cash estimates, with 25% of the 2008-09 number being shifted into 2009-10. The conference adopted an indeterminate negative estimate for the recurring impact.

| | FY 2008-09 Annualized | FY 2008-09 Cash | FY 2009-10 Cash |
|--------------------|-----------------------|-----------------|-----------------|
| General Revenue | (Indeterminate) | (146.8) | (76.0) |
| State Trust | | | |
| Total State Impact | | | |
| Total Local Impact | | | |
| Total Impact | (Indeterminate) | (146.8) | (76.0) |

| | FY 2010-11 Cash | FY 2011-12 Cash |
|--------------------|-----------------|-----------------|
| General Revenue | 51.1 | 38.4 |
| State Trust | | |
| Total State Impact | | |
| Total Local Impact | | |
| Total Impact | 51.1 | 38.4 |

The Revenue Estimating Conference on March 21, 2008, adopted a \$93.8 million impact (cash) on state revenues for FY 2008-2009 for sections 5 and 6 of the bill.

2. Expenditures:

The Department of Revenue will be required to change corporate forms and audit instruction.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants rule making authority to the Department of Revenue.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 26, 2008, the Government Efficiency & Accountability Council heard PCB GEAC 08–29 and adopted three technical amendments to the PCB. Amendment one clarifies that the declaration of estimated tax for those corporations meeting the minimum tax requirements of s. 220.24(1), F.S., after the third month and before the sixth month, should be filed on or before June 30; amendment two clarifies the timing for declarations and taxes when four installments are required; and amendment three conforms the effective date for the piggy back provisions so that these provisions are effective upon becoming law and operate retroactively to January 1, 2008.